



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

REVISED

AMENDED

FACT SHEET FOR S.B. 1463

DIFI; omnibus

Purpose

Makes various changes to the Arizona Department of Insurance and Financial Institutions (DIFI), retroactive to July 1, 2020.

Background

Consolidation of DIFI

[Laws 2019, Chapter 252](#) absorbed the Department of Financial Institutions (DFI) and the Automobile Theft Authority (ATA) into the Department of Insurance (DOI) and renamed DOI the Arizona Department of Insurance and Financial Institutions (DIFI), effective July 1, 2020. DIFI assumes the responsibilities that are prescribed to the DFI, ATA and DOI.

[Laws 2020, Chapter 37](#) defined the *Superintendent* and *Deputy Director* as the Deputy Director of DIFI (Deputy Director) and required the Director of DIFI (Director) to appoint an individual to operate the Fraud Unit in conjunction with operating the ATA. The 2019 and 2020 legislation required Legislative Council staff to prepare conforming legislation in the Fifty-Fifth Legislature, First Regular Session.

DIFI Fees

DIFI collects nonrefundable fees from financial institutions and enterprises with the filing of certain applications. Additionally, annual renewal fees must be paid each year to DIFI by outlined financial institutions and enterprises ([A.R.S. § 6-126](#)).

Mortgage Broker Examinations and Exemptions

A testing committee must create, periodically update and establish standards for passing a test for mortgage brokers. Each applicant for an original license must take and pass the written test given under the supervision of DIFI before issuance of the license ([A.R.S. § 6-908](#)).

A mortgage broker, mortgage banker or commercial mortgage banker licensed as an exempt person must deposit with the Superintendent of DIFI, before doing business as a registered exempt person, a bond executed by the registered exempt person as principal and a surety company authorized to do business in Arizona as surety. The bond is payable to any person injured by the wrongful act, default, fraud or misrepresentation of the registered exempt person or the registered exempt person's employees and to Arizona for the benefit of the person injured ([A.R.S. § 6-912](#)).

Real Estate Appraisal

A corporation, partnership or other business entity may provide real estate appraisal services if the appraisal is prepared by a licensed or certified individual. An individual who is not a state-licensed or state-certified appraiser may assist in the preparation of an appraisal if: 1) the assistant is under the direct supervision of a state-licensed or state-certified appraiser; and 2) the final appraisal document is approved and signed by a licensed or certified individual ([A.R.S. § 32-3624](#)).

Fraud Unit within DIFI

The Director must administer the Fraud Unit and may investigate any act or practice of fraud. The Director must annually assess each insurer authorized to transact business in Arizona up to \$1,050 for the administration and operation of the Fraud Unit and for the prosecution of fraud ([A.R.S. § 20-466](#)).

Automobile Theft Authority

The ATA may: 1) determine the scope of the problem of motor vehicle theft including particular areas of Arizona where the problem is greatest; 2) analyze the various methods of combating motor vehicle theft; 3) develop and implement a plan of operation and a financial plan; and 4) solicit and accept gifts and grants. The ATA Fund consists of monies deposited from certain civil traffic violations and any public or private monies the ATA may receive ([A.R.S. § 41-3451](#)).

The Joint Legislative Budget Committee fiscal note estimates a \$229,200 decrease in state General Fund revenue as a result of eliminating the collection of certain financial institution and financial enterprise fees ([JLBC fiscal note](#)).

Provisions

Revision of DIFI Fees

1. Removes the following nonrefundable application fees for financial institutions and enterprises:
 - a) \$500 to apply for approval of the articles of incorporation of a business development corporation;
 - b) \$50 to move an established office of an enterprise to a location other than an established office;
 - c) \$100 to issue a duplicate or replace a lost enterprise's license;
 - d) \$250 to change the responsible person listed on a mortgage broker's, commercial mortgage broker's, commercial mortgage bankers or a mortgage banker's license; and
 - e) \$250 to change an active manager on a collection agency license or a manager of a money transmitter branch office license.
2. Removes the requirement for a money transmitter and a collection agency to pay a nonrefundable fee to apply for a branch office.
3. Establishes the following nonrefundable fees:
 - a) \$300 plus \$300 for each branch office for a premium finance company; and
 - b) \$50 for an advance fee loan broker.

4. Requires an applicant for a license or permit for an enterprise or consumer lender to pay the first year's annual assessment prorated according to the number of quarters remaining until the date of the next annual assessment or renewal.
5. Requires DIFI to refund the prorated annual assessment that an applicant for an enterprise or consumer lender license or permit paid, if the application ends in denial.
6. Stipulates that annual renewal fees are nonrefundable for an application of a license or permit for an enterprise or consumer lender.
7. Sets the annual assessment and renewal fee paid for a premium finance company at \$300 plus \$300 for each branch office and removes the statutorily outlined minimum and maximum for a full or partial year license, renewal or branch office permit.
8. Sets the annual renewal fee paid for an advance fee loan broker at \$25 and removes the \$25 fee for supplemental statements.
9. Sets the annual renewal fee for a collection agency at \$600, rather than \$600 plus an annual assessment of \$200 for each branch office.
10. Specifies that the fee to change the licensee name on a financial institution or enterprise license does not apply to a loan originator or appraiser license.

Mortgage Broker Examinations and Exemptions

11. Allows the Deputy Director to contract for the testing of mortgage broker license applicants.
12. Requires DIFI's contractor to reasonably prescribe the time, place and conduct of testing and collect a fee for administration of the test.
13. Requires the \$50 testing fee to be paid by the applicant directly to the contractor, if the Deputy Director contracts for the testing of applicants.
14. Allows the Deputy Director to allow a contractor to charge a reasonable testing fee that is more than the \$50 testing fee.
15. Specifies that a bond executed by a registered exempt person is payable to any person injured by the wrongful act, default, fraud or misrepresentation of the registered exempt person's directors, officers, members, partners and trustees.

Real Estate Appraisal

16. Stipulates that the Uniform Standards of Professional Appraisal Practice published by the Appraisal Standards Board are the standards for appraisal practice in Arizona, unless the Deputy Director objects.
17. Allows an individual who is not a state-licensed or state-certified appraiser to provide clerical or administrative assistance in the preparation of an appraisal document.

18. Allows an individual who is a registered trainee appraiser to be involved in developing and reporting the appraisal if certain conditions are met.
19. Specifies that the exemption from statutes governing appraisal management companies applies to a state or federally regulated department or unit within a financial institution that receives requests for the performance of real estate appraisals from the financial institution.
20. Exempts a federally regulated appraisal management company from statutes governing appraisal management companies.
21. Defines *federally regulated appraisal management company*.

Fraud Unit within DIFI

22. Specifies that monies collected from the Fraud Unit assessment to be deposited in the state GF are to be appropriated to the Fraud Unit and must be continuously appropriated to DIFI to operate the Fraud Unit.

Automobile Theft Authority

23. Requires the ATA to make grants awarded from the ATA Fund.
24. Requires DIFI to provide administrative support for the ATA.
25. Requires all monies appropriated to DIFI for the ATA be used exclusively for the operation of the ATA.

Miscellaneous

26. Transfers the authority and responsibilities delegated to the Superintendent to the Deputy Director.
27. Modifies the definition of *control* by raising the direct or indirect ownership of, or power to vote, from 15 percent to 25 percent or more of the outstanding voting securities or shares required for the purposes of:
 - a) acquisition of control of a bank, trust company or savings and loan association; and
 - b) Arizona Interstate Bank and Savings and Loan Association Act.
28. Modifies the definition of *consumer loan* to mean the direct closed end loan of money, whether unsecured or secured by personal or real property, in an amount of \$10,000 or less that is subject to a finance charge.
29. Stipulates that a consumer loan made pursuant to a consumer lender license is not a secondary motor vehicle finance transaction.
30. Repeals the statutory authority and administration of deferred presentment companies.
31. Makes technical and conforming changes.
32. Becomes effective on the general effective date, retroactive to July 1, 2020.

Amendments Adopted by Committee

- Removes the exemption of a state regulated appraisal management company from statutes governing appraisal management companies.

Amendments Adopted by Committee of the Whole

1. Requires all monies appropriated to DIFI for the ATA to be used exclusively for the operation of the ATA.
2. Reinserts the exemption of a state or federally regulated department or unit within a financial institution that receives requests for the performance of real estate appraisals from statutes governing appraisal management companies.
3. Removes the requirement that monies collected from the semiannual fee of \$0.50 per vehicle assessed on an insurer issuing motor vehicle liability insurance policies be continuously appropriated to DIFI to operate the ATA.

Amendments Adopted by the House of Representatives

1. Reinstates the amount of the closed end loan of \$10,000 or more, rather than \$50,000 or more, that is excluded from the statutory requirements applicable to consumer lenders.
2. Reinstates, in the definition of *consumer loan*, the amount of the direct closed end loan of \$10,000 or less, rather than \$50,000 or less.

Revisions

- Updates the fiscal impact statement.

Senate Action

FIN	2/10/21	DPA	8-1-1
3 rd Read	3/3/21		26-4-0

House Action

GE	3/25/21	DP	7-6-0-0
3 rd Read	4/29/21		59-1-0

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MG/ML/gs